

**REMARKS****Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Hamada et al. (JP 06-282871) (hereinafter "Hamada"). Claims 2, 3/2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamada in view of Minoru (JP 2002-008269) (hereinafter "Minoru"). Claim 3/1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamada. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamada in view of Sako et al. (U.S. Patent No. 7,287,167) (hereinafter "Sako"). The rejections are respectfully traversed for at least the reasons discussed below.

To begin, the undersigned would like to thank Examiners Chowdhury and Tran for their courtesy and consideration extended during the December 18, 2008 telephone interview. The arguments set forth below are consistent with those presented during the telephone interview. In particular, Applicants respectfully submit that the arrangement in Hamada is unlike that of the claimed embodiments of the present invention, in that Hamada does not teach the claimed arrangement of the cover layer, recording layer and substrate, in that order, with respect to the side where the optical beam is applied (i.e., the optical beam is applied in the direction of the cover layer). Rather, in Hamada, the optical beam is applied to and passes through the light transmission substrate 12, and thus, the Hamada arrangement has the order of substrate 12, light absorption layer 14, enhancement layer 16, reflecting layer 18 and protective layer 20, in that order, with respect to the side (i.e., the substrate 12 side) where the optical beam is applied.

With regard to the 35 U.S.C. § 102(b) rejection of claim 1, the Examiner maintains in Sections 2 through 5 of the final Office Action that the embodiment of the present invention

recited in claim 1 is disclosed in Hamada. In particular, referring to paragraphs 0006 to 0009 of Hamada, the Examiner states that “Hamada discloses an optical beam passing from the cover layer through light absorption layer.” Applicants respectfully disagree.

Applicants respectfully submit that as disclosed in Fig.2 and paragraph 0011 of Hamada, a reflection layer 18 is laminated between a protective layer 20 and an enhancement layer 16, and an enhancement layer 16 is laminated between a reflection layer 18 and a light absorption layer 14. Assuming that the light absorption layer 14 of Hamada is a recording layer, if an optical beam for recording is irradiated from the side of protective layer 20 to the information recording medium 10 as the Examiner contends, the optical beam would not reach the light absorption layer 14 because the optical beam would be reflected by the reflection layer 18 before reaching the light absorption layer 14. Therefore, Applicants submit that the direction of the optical beam for recording in Hamada is upward in Fig. 2 of Hamada or, in other words, in the direction toward the light transmission substrate 12.

Again, Applicants submit that Hamada fails to disclose the arrangement of the layers and substrate in the direction at which the optical beam is applied as recited in claim 1 of the present application. Rather, as discussed above and based on the paragraph 0011 and Fig.2 of Hamada, Applicants submit that Hamada discloses an optical information recording medium in which the substrate 12, recording layer 14 and cover layer 20 are disposed, in this order, from the side where optical beam is applied. In other words, the arrangement and application of the optical beam for recording in Hamada is opposite to that of the optical information medium and application of the optical beam in the claimed embodiment of the present invention as recited in independent claim 1.

Accordingly, for at least the above reasons, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Concerning the rejection of claim 3/1 based on Hamada, the rejection of claims 2 and 3/2 based on Hamada in view of Minoru, and the rejection of claim 4 based on Hamada in view of Sako, Applicants respectfully submit that as demonstrated above, Hamada at best teaches an arrangement opposite to that of the claimed embodiment of the present invention. Furthermore, Applicants respectfully submit that Minoru and Sako do not cure the deficiencies of Hamada as discussed above. Accordingly, Applicants respectfully request that these rejections be withdrawn.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

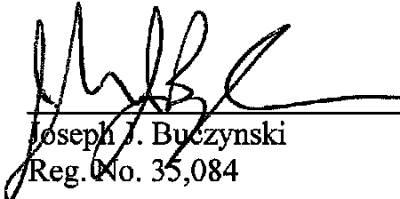
This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

Dated: December 22, 2008

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